

**HEALTH CARE
DECISIONS
MAKING SURE YOUR
CLIENT'S WISHES ARE
FOLLOWED**

**R U T H A . P H E L P S
D A V I D V U K A D I N O V I C H**

HEALTH CARE DECISION

- ✿ Defined in Probate Code section 4617:
 - ✿ selection & discharge of health care providers
 - ✿ approval or disapproval of diagnostic tests, surgical procedures and medications
 - ✿ directions to provide, withhold or withdraw artificial nutrition and hydration and all other forms of health care, including CPR

HEALTH CARE DOCUMENTS

- ☼ Living will
- ☼ Natural Death Act Declaration
- ☼ Directive to Physicians

NECESSARY DOCUMENTS

- ✻ Advance Health Care Directive
- ✻ Pre-Hospital DNR (Do Not Resuscitate)
- ✻ Necessary because
 - ✻ No statutory preference
 - ✻ Spouse, registered domestic partner

DOCUMENT CHECKLIST

- ✿ Name an agent - contact info, cell number
- ✿ Co-agents - act jointly/severally
- ✿ Signed and dated
- ✿ Notarized/witnessed/ombudsman
- ✿ Revoke prior documents - competing documents
- ✿ Lawyer's contact information

AGENTS

- ✱ Co-agents and alternate agents
 - ✱ act jointly or severally
 - ✱ unable to reach agent, contact the alternate

HIPAA/CMIA WAIVERS

- ✿ HIPAA - Health Insurance Portability and Accountability Act - covers medical information
- ✿ CMIA - Confidentiality of Medical Information Act
 - ✿ personal effects after death
 - ✿ 3rd party litigation - wrongful death, worker's comp

FAMILY INTERVENTION

- ✿ Family can be denied the right to petition the court under Probate Code section 4766 if a lawyer prepares the document
- ✿ Right to petition can be limited to the agent, the alternate agent, the court investigator and the public guardian
- ✿ Visitors - agent can control who may visit

HELPFUL PARAGRAPHS

- ☼ Pain relief medication
- ☼ Anatomical gifts/organ donation
- ☼ Autopsy
- ☼ Burial/cremation
- ☼ Funeral/memorial service

RELIGIOUS ISSUES

- ✻ Make religious guidelines clear
- ✻ Christian Scientist - healing by prayer
- ✻ Jehovah's Witnesses - no blood products
- ✻ Choice of religious advisors

THANK YOU